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8                   UNITED STATES DISTRICT COURT  
9                   WESTERN DISTRICT OF WASHINGTON  
10                  AT TACOMA

11                  KIC LLC, a Delaware Limited Liability  
12                  Company,

13                  Plaintiff,

14                  v.

15                  ZHEJIANG DICASTAL HONGXIN  
16                  TECHNOLOGY CO. LTD., a Chinese  
17                  Corporation

18                  Defendant.

19                  CASE NO. 19-cv-5660-RJB

20                  ORDER ON PLAINTIFF'S  
21                  MOTION TO COMPEL  
22                  DISCOVERY

23                  THIS MATTER comes before the Court on Plaintiff's Motion to Compel Discovery. Dkt.

24                  26. The Court is familiar with the motion, all materials filed in support of and in opposition thereto, and the remainder of the record herein. For the reasons set forth below, Plaintiff's motion should be granted, in part, and denied, in part.

25                  I.        BACKGROUND

26                  Plaintiff is a manufacturer and designer of automotive parts, including wheels and wheel  
27                  end products. Dkt. 26, at 2. Defendant is a wheel manufacturer. Dkt. 26, at 3. Plaintiff alleges  
28

1 that Defendant breached a Distribution Agreement and Confidentiality Agreement through its use  
2 of Plaintiff's confidential and trade secret information and sale of wheels to Plaintiff's  
3 customers. Dkt. 26, at 2.

4 On November 18, 2019, Plaintiff served on Defendant its First Set of Requests for  
5 Admission, Interrogatories and Requests for Production of Documents on Hongxin ("Discovery  
6 Requests"). Defendant served on Plaintiff a Response to Discovery Requests, dated January 16,  
7 2020, following an agreed extension for the holidays. Dkts. 26, at 4; and 27-1. After various  
8 discussions between the Parties, Defendant completed a Revised Response to Discovery  
9 Requests, dated February 20, 2020 (Dkt. 27-5).<sup>1</sup> See Dkt. 26, at 4–5. The Parties held a  
10 telephonic conference on February 27, 2020, but apparently only partially resolved the dispute.  
11 See Dkt. 26, at 1-2.

12 On February 28, 2020, Plaintiff filed the instant Motion to Compel Discovery. Dkt. 26.  
13 Plaintiff requests sanctions against Defendant and disputes the sufficiency of Defendant's  
14 Revised Response to Discovery Requests as to Requests for Admission ("RFA") 3–5 and  
15 Interrogatories 1,<sup>2</sup> 2, and 5. Dkt. 26.

16 Defendant filed a response in opposition to the instant motion. Dkt. 28. Attached with  
17 Defendant's response is a Second Revised Response to Discovery Requests, dated March 13,  
18 2020. Dkt. 29-1. Defendant argues that (1) the Parties did not meaningfully meet and confer  
19 because Plaintiff filed the instant motion one day after the Parties met and conferred; and (2)  
20  
21

22 <sup>1</sup> It is unclear whether the Revised Response to Discovery Requests was dated February 10, 2020, or February 20,  
23 2020. Compare Dkt. 26, at 5:5, with Dkt. 27-5, at 17.

24 <sup>2</sup> It appears that Plaintiff disputes the sufficiency of the response to Interrogatory No. 1, see, e.g., Dkt. 26, at 5:22–  
23, although Plaintiff does not explicate the relief requested as to Interrogatory No. 1. See Dkts. 26, at 2; and 26-1.

1 Plaintiff's Second Revised Response to Discovery Requests sufficiently answers Plaintiff's  
2 discovery requests. Dkt. 28.

3 Plaintiff filed a reply in support of the instant motion. Dkt. 32. Plaintiff contends, in part,  
4 that the Second Revised Response to Discovery Requests is deficient. Dkt. 32.

5                   **II. DISCUSSION**

6                   **1. DISCOVERY STANDARDS**

7                 Under the Federal Rules of Civil Procedure, parties may generally obtain discovery  
8 regarding any non-privileged matter that is relevant to any party's claim or defense and  
9 proportional to the needs of the case. Fed. R. Civ. P. 26. Information need not be admissible at  
10 trial to be discoverable. Fed. R. Civ. P. 26(b)(1).

11                 FRCP 37(a)(1) provides that, in part:

12                 On notice to other parties and all affected persons, a party may  
13 move for an order compelling disclosure or discovery. The motion  
14 must include a certification that the movant has in good faith  
15 conferred or attempted to confer with the person or party failing to  
16 make disclosure or discovery in an effort to obtain it without court  
action.

17                 FRCP 37(a)(3)(A)–(B) provides that:

18                 (A) *To Compel Disclosure*. If a party fails to make a disclosure  
19 required by Rule 26(a), any other party may move to compel  
20 disclosure and for appropriate sanctions.

21                 (B) *To Compel a Discovery Response*. A Party seeking discovery  
22 may move for an order compelling an answer, designation,  
23 production, or inspection.

24                 Courts are given broad discretion to control discovery under FRCP 37, including  
“particularly wide latitude ... to issue sanctions under FRCP 37(c)(1)[.]” *Ollier v. Sweetwater*  
*Union High Sch. Dist.*, 768 F.3d 843, 859 (9th Cir. 2014) (quoting *Yeti by Molly, Ltd. v. Deckers*  
*Outdoor Corp.*, 259 F.3d 1101, 1106 (9th Cir. 2001)).

1           **2. MEET AND CONFER REQUIREMENTS**

2           Plaintiff certifies that the Parties met and conferred and had a telephonic conference on  
3 February 27, 2020, but they were unable to resolve this dispute. Dkt. 26, at 1-2. Defendant  
4 contends that Plaintiff did not give it reasonable time to respond when Plaintiff filed the instant  
5 motion one day after the telephonic conference. Dkt. 28, at 3. Regardless, even though the  
6 Parties apparently agreed that Defendant would withdraw some objections, the Parties did not  
7 reach resolution of all the disputes herein. *See* Dkt. 32.

8           Therefore, Plaintiff's motion satisfies the meet and confer requirements under Fed. R.  
9 Civ. P. 37(a)(1).

10          **3. DISCOVERY DISPUTE**

11          When Plaintiff filed the instant motion on February 28, 2020, Defendant's most recent  
12 answers and responses appear to have been the Revised Reponses to Discovery Requests, dated  
13 February 20, 2020. *See* Dkt. 27-5. Defendant's response brief contains an attached Second  
14 Revised Response to Discovery Requests, dated March 13, 2020. Dkt. 29-1. Plaintiff contends  
15 that Defendant's Second Revised Response to Discovery Requests is also deficient. Dkt. 32.  
16 Below, the Court cites to the Second Revised Response to Discovery Requests (Dkt. 29-1, at 2;  
17 "This set of revised responses supersedes the original Responses and Objections served on  
18 January 17, 2020 and the Revised set served on February 20, 2020") as the operative set of  
19 responses for its discussion of RFAs 3–5 and Interrogatories 1, 2, and 5.

20          a. RFA No. 3

21          **Request No. 3:** Admit that Hongxin sold the Products to  
22 FleetPride, Inc. during the term of the Distribution Agreement.

23          **ANSWER: Objection.** The term "Products" is vague and  
24 ambiguous.

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3  
4       Subject to and without waiving these objections, Defendant  
5       Zhejiang Hongxin responds as follows:

6  
7       ADMIT, but Defendant Zhejiang Hongxin denies that it was  
8       prohibited from doing so because FleetPride, Inc. has been a  
9       longstanding customer of Defendant's since 2009, before  
10      execution of the Distribution Agreement with KIC.

11      Dkt. 29-1, at 6.

12      Defendant's objection may or may not have merit, but Defendant's qualified response to  
13      RFA 3 appears sufficient. The Court further observes, with some dismay, that Defendant's  
14      response to RFA 3 in the Revised Response ("DENIED") is the opposite of its response in the  
15      operative Second Revised Response ("ADMIT"). *Compare* Dkt. 27-5, at 6, *with* Dkt. 29-1, at 6.

16      b. RFA No. 4

17      **Request No. 4:** Admit that Hongxin sold the Products to  
18      Taskmaster Components during the term of the Distribution  
19      Agreement.

20      **ANSWER: Objection.** "Taskmaster Components" is vague and  
21      ambiguous and is not a sufficient identifier of a corporate entity.

22      ....

23      Subject to and without waiving these objections, Defendant  
24      Zhejiang Hongxin responds as follows:

25      DENIED.

26      Dkt. 29-1, at 6.

27      Defendant's objection may or may not have merit, but Defendant's qualified response to  
28      RFA No. 4 appears sufficient. *See* Dkt. 29-1, at 6.

29      c. RFA No. 5

30      **Request No. 5:** Admit that Hongxin sold the Products during the  
31      term of the Distribution Agreement to customers or entities other

1 than FleetPride, Inc., Taskmaster Components, PACCAR, and  
2 Dragon.

3 **ANSWER: Objection.** Vague and ambiguous as to the terms  
4 “customers or entities.” Compound request. “Taskmaster  
5 Components, PACCAR, and Dragon” are vague and ambiguous  
6 and are not sufficient identifiers of corporate entities. Leading  
7 Question.  
8

9 ....  
10

11 Subject to and without waiving these objections, Defendant  
12 Zhejiang Hongxin responds as follows:  
13

14 DENIED that Defendant Zhejiang Hongxin sold to any entities  
15 listed on Appendix A other than FleetPride, Inc. Defendant  
16 Zhejiang Hongxin sold to other customers not listed on Appendix  
17 A.  
18

Dkt. 29-1, at 7.

19 Defendant’s answer is cryptic at best and evasive at worst. RFA No. 5 makes no  
20 reference to “Appendix A,”<sup>3</sup> and it is unclear why Defendant’s answer refers to it. *See* Dkt. 29-1,  
21 at 7. Regardless, despite Defendant having written “DENIED,” the unclear explanation that  
22 follows makes it appear that Plaintiff admits to RFA No. 5. *See id.*  
23

d. Interrogatory No. 1

17 **Interrogatory No. 1:** If Hongxin’s answer to any of the above  
18 Requests for Admissions is anything other than an unqualified  
19 admission, then for each such answer, identify the following:  
20

21 a. The number of the Request;  
22 b. All facts upon which Hongxin bases its response;  
23 c. All witness(es) with knowledge of the facts upon which  
24 Hongxin bases its response; and  
25 d. All documents that support Hongxin’s response.

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<sup>3</sup> A copy of Appendix A is apparently on record at Dkt. 27-4, at 13 *et seq*; it appears to be Plaintiff’s customer list.

1           **Answer: Objection.** Compound request. Hongxin objects to this  
2 request as overbroad and burdening to the extent it requests “all  
3 facts upon which Hongxin bases its responses.” See *Weber v.  
4 Biddle*, 72 Wn.2d 22, 29, 431 P.2d 705 (1967). Hongxin Objects to  
5 this request as overbroad and burdensome to the extent it requests  
6 “all witnesses with knowledge” and “all documents.”  
7

8                 ....  
9

10           Subject to and without waiving these objections, as well as the  
11 general objections set forth above:  
12

13                 ....  
14

15           ***Request for Admission No. 3***

16           Defendant Hongxin refers to Paragraph 2 of the Distribution  
17 Agreement. Hongxin and FleetPride, Inc. have done business since  
18 2009. Individuals with knowledge are listed in Interrogatory No. 3  
19 below and in Hongxin’s initial disclosures. It is impractical to list  
20 all of the FleetPride, Inc. order documents here. There are many  
21 purchase orders, invoices, supply lists, etc. between Hongxin and  
22 Fleetpride, Inc. beginning in 2009.

23           ***Request for Admission No. 4***

24           Defendant Zhejiang Hongxin’s answer speaks for itself. Hongxin  
25 never sold any Products to Taskmaster Components. Individuals  
26 with knowledge are listed in Hongxin’s Initial Disclosures.

27           ***Request for Admission No. 5***

28           Defendant Zhejiang Hongxin’s answer speaks for itself. Other than  
29 FleetPride, Inc., Hongxin only sold products on customers not  
30 listed on Appendix A during the term of the Distribution  
31 Agreement. Individuals with knowledge are listed in Hongxin’s  
32 Initial Disclosures, as well as Omar, Neil, John, and Greg of KIC  
33 who all verbally agreed to these sales.

34           Dkt. 29-1, at 7–9.  
35

36           “Although the term discrete subparts does not have a precise meaning, courts generally  
37 agree that interrogatory subparts ought to be counted as one interrogatory ... if they are logically  
38 or factually subsumed within and necessarily related to the primary question.” *Trevino v. ACB*  
39

1     *American Inc*, 232 F.R.D. 612 (N.D. CA 2006) (quotations and citations omitted); *see generally*  
2     *Neill v. All Pride Fitness of Washougal, LLC*, C08-5424-RJB, 2009 WL 10676369, at \*2 (W.D.  
3     Wash. May 21, 2009) (discussing case law on what is and is not a discrete subpart).

4                 Defendant's compound question objection is without merit because the interrogatory's  
5     subparts are logically and factually subsumed and necessarily related to the primary question.  
6     *See Trevino*, 232 F.R.D. at 612.

7                 However, the Court partially agrees with Defendant's objection that Interrogatory No. 1  
8     is overbroad and burdensome. *See Aspen Grove Owners Ass'n. v. Park Promenade Apartments,*  
9     *LLC*, C09-1110-JCC, 2010 WL 3788038, at \*6 (W.D. Wash. Sept. 17, 2010), *report and*  
10     *recommendation adopted*, C09-1110-JCC, 2010 WL 3787995 (W.D. Wash. Sept. 23, 2010)  
11     (quoting *Weber v. Biddle*, 72 Wn.2d 22, 29, 431 P.2d 705 (1967) ("[T]he opposing party cannot  
12     be required to put on a dress rehearsal of the trial. While it is proper to elicit information as to  
13     evidentiary facts as contrasted with ultimate facts, nevertheless it is improper to ask a party to  
14     state evidence upon which he intends to rely to prove any fact or facts.").

15                 Nevertheless, Defendant's answer is partially insufficient. Concerning the answer to  
16     Interrogatory No. 1 as it relates to RFA No. 3 (Dkt. 29-1, at 8:16-21), product sales between  
17     Defendant and FleetPride, Inc. go to the heart of this case: the alleged violation of a Distribution  
18     Agreement prohibiting Defendant from selling certain products to certain customers, including  
19     Products to FleetPride, Inc. Therefore, it is reasonable and proportional to the needs of this case  
20     for Defendant to produce sales documents of Products, as defined in the Distribution Agreement,  
21     sold by Defendant to FleetPride, Inc.

22                 e. Interrogatory No. 2

23                 **Interrogatory No. 2:** Identify all sales of the Products by Hongxin  
24     to customers listed on Appendix A to the Distribution Agreement

1                   between March 21, 2013 and March 21, 2019, including for each  
2                   sale, name of the customer, date of sale, type(s) of Products sold,  
3                   quantity of Products sold, individual piece price of the Products  
4                   sold, date that payment was received from the customer for the  
5                   Products, and, shipment destination for the Products sold.

6  
7                   **Answer: Objection.** This request seeks information protected as  
8                   trade secrets. Compound request. Overly burdensome to the extent  
9                   it requests specific information for “all sales.”

10                  ....

11                  Subject to and without waiving these objections, as well as the  
12                  general objections set forth above:

13                  With regard to entities listed on Appendix A, Hongxin has only  
14                  sold to FleetPride, Inc. Hongxin began doing business with  
15                  FleetPride, Inc. in 2009. KIC was aware that Hongxin continued  
16                  doing business with FleetPride, Inc. after execution of the March  
17                  2013 Distribution Agreement. Pursuant to Fed. R. Civ. P 33(d),  
18                  Hongxin has produced documents in response to this interrogatory.

19                  Dkt. 29-1, at 9.

20                  To the extent that the only customers listed on Appendix A to whom Defendant sold  
21                  products between March 21, 2013, and March 21, 2019, was FleetPride, Inc., which is what  
22                  Defendant claims (Dkt. 29-1, at 7:13–15; and 30, at 2:1–3), Interrogatory No. 2 is duplicative of  
23                  Interrogatory 1. Dkt. 29-1, at 9.

24                  f. Interrogatory No. 5

1                   **Interrogatory No. 5:** Identify all sales of Products by Hongxin to  
2                   North American (non-U.S.) customers for less than 10% above the  
3                   price of the same Products Hongxin sold to KIC during the term of  
4                   the Distribution Agreement, including, for each sale, name of the  
5                   customer, date of sale, type(s) of Products sold, quantity of  
6                   Products sold, and individual piece price of the Products sold.

7  
8                   **Answer: Objection.** Compound request. Vague and ambiguous as  
9                   to “for less than 10% above the price of the same Products  
10                  Hongxin sold to KIC during the term of the Distribution  
11                  Agreement.” Vague and ambiguous as to term “Products.” Overly

1 burdensome request to the extent it requests specific information  
2 about “each sale.”  
3

4       ....  
5

6 Subject to and without waiving these objections, as well as the  
7 general objections set forth above:  
8

9 The products sold to Non-U.S. North American customers are  
10 often not the same as the products sold to KIC, Pursuant to Fed. R.  
11 Civ. Pro 33(d), Hongxin has produced documents in response to  
12 this request.  
13

14 Dkt. 29-1, at 11–12.  
15

16 “[D]iscovery of a document may be limited if discovery of such document is unduly  
17 burdensome .... However, the Court only entertains an unduly burdensome objection when the  
18 responding party demonstrates how the document is “overly broad, burdensome, or oppressive,  
19 by submitting affidavits or offering evidence which reveals the nature of the burden.” *See*  
20 *Tequila Centinela, S.A. de C.V. v. Bacardi & Co. Ltd.*, 242 F.R.D. 1, 10 (D.D.C. 2007) (citations  
21 omitted).  
22

23 Interrogatory No. 5 has two critical flaws. First, Interrogatory No. 5 is vague and  
24 ambiguous, leaving Defendant to wonder how it should compare price points over a period of  
time that spans years.  
25

26 Second, Interrogatory No. 5 appears unduly burdensome. Although the materials sought  
27 by Interrogatory No. 5 may be relevant, Defendant provides the declaration of Wenzhi Wang,  
28 Defendant’s Chairman, stating that “[a]ll responsive sales documents with regard to Hongxin’s  
29 sales to non-U.S. customers during the term of the Distribution Agreement have been provided to  
KIC already.” Dkt. 30, at 2:12–14.  
30  
31  
32  
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g. Conclusion

Based on the foregoing, Plaintiff's Motion to Compel Discovery should be granted, in part, and denied, in part. In conformity with the discussion above, Defendant should provide amended responses to RFA No. 5 and Interrogatory No. 1, to be served on Plaintiff no later than April 27, 2020. Sanctions are not appropriate at this time. *See* Fed. R. Civ. P. 37(c).

### **III. ORDER**

Therefore, it is hereby **ORDERED** that:

- Plaintiff's Motion to Compel Discovery (Dkt. 26) is **GRANTED, IN PART, AND DENIED, IN PART**; and
- In conformity with the discussion above, Defendant shall provide amended responses to RFA No. 5 and Interrogatory No. 1, to be served on Plaintiff no later than **April 27, 2020**.

The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any party appearing *pro se* at said party's last known address.

Dated this 30<sup>th</sup> day of March, 2020.

Robert H. Bryan

ROBERT J. BRYAN  
United States District Judge